



Joint statement by the Centre d'Études et de Recherches sur le Droit de l'Environnement (CERDE) and the African Coalition for Corporate Accountability (ACCA) on the recent position taken by the Burkinabe Minister of Commerce on the Swiss Responsible Business Initiative

The Burkinabe Minister of Industry, Trade and Handicrafts, Mr Harouna Kaboré, was visiting Bern last week. He indicated his disagreement with the [“Popular Initiative for Responsible Business Initiative”](#) (RBI) that will be submitted to a vote in Switzerland on November 29. [Widely relayed](#) in Swiss media, the position taken by the Burkinabe minister is quite a bias and a regrettable interference in the democratic debate internal to Switzerland. Alongside Madame Isabelle Chevalley, one of the main opposing figures to the RBI, Minister Kaboré recounted the positions usually defended by the latter, which he furthermore presented as "a friend of Burkina Faso". This strange mixture leaves one perplexed on the real motivations of the minister's take on this issue. As it is well known, the current context in Switzerland is marked by unprecedented lobbying of large multinational companies doing everything possible to combat the RBI.

The CERDE and the ACCA are concerned by this stance of the Burkinabe Minister. His position not only lacks clarity as to the actual damage that a future Swiss law on the liability of Swiss multinational companies would cause in Burkina Faso, but also contradicts the official positions of Burkina Faso on the issue of the accountability of multinational corporations with regards to human rights. It further defeats Burkina Faso's international commitments on issues related to environmental protection and human rights.

Minister Harouna Kaboré says he went to Switzerland to make Burkina Faso's case and hopes that the RBI will not receive the approval of the Swiss people. According to him, the RBI would cause "serious socio-economic problems". He went on stating that adoption of the Initiative would halt purchases of 60 per cent of the Burkinabe cotton production. Equally surprisingly, he claims that the Initiative "infantilises" African countries. Assuming it is made in good faith, the argument suggests that the minister is mistaken about the actual nature and scope of the RBI.

The RBI mainly aims to introduce into Swiss domestic legislation a duty of care in environmental and human rights matters incumbent on multinational corporations domiciled in Switzerland. In



other words, it is about requiring them to ensure that their operations abroad comply with human rights. Contrary to what the minister's comments suggest, this Initiative does not target neither Burkinabe cotton farmers – who are certainly not Swiss multinational corporations – nor the cotton sector in particular. [As the indicated by its authors](#), the RBI concerns about a thousand multinational companies domiciled in Switzerland operating in all corners of the world and covering a huge range of activities. Companies with responsible conduct have nothing to fear from this Initiative. Hence, [some](#) are actually in support of it.

The “infantilisation” argument, on the other hand, completely ignore the everyday reality of human rights violations and environmental damages caused by certain multinational corporations around the world, as well as the impunity they enjoy. Some states where these violations are committed are not willing to prosecute them. Even in situations where such a will exist, there is often a legal vacuum that prevents victims from access to remedies. This is due to the complex legal issues surrounding national courts' jurisdiction when it comes to multinational companies. The RBI aims to address this situation of “lawlessness”. Moreover, the Initiative is in line with a growing movement which is leading several host states of multinational companies to adopt domestic legislation dealing with this issue. Hence, France, which is undoubtedly one of Burkina's main trading partners, adopted in 2017 a law similar to the Swiss Initiative. This did not arouse such anger from the government of Burkina Faso, yet much closer to Paris than to Bern.

Moreover, the position of the Burkinabe minister is at odds with international normative developments on this issue. It equally contradicts Burkina's international efforts and commitments on the need to fill the accountability gap when it comes to multinational companies and the protection of human rights and the environment. Indeed, since 2011, the Human Rights Council has unanimously adopted the United Nations Guiding Principles on Business and Human Rights. These principles are internationally recognised as a reference framework on the subject. They provide for a due diligence obligation incumbent on multinational corporations in their operations. This is the type of legal obligation that the RBI aims to establish in Swiss domestic law.

Furthermore, Burkina Faso is one of the [14 States to have voted](#), on June 29, 2014, for the resolution 26/9 of the United Nations Human Rights Council, calling for the elaboration of an



international legally binding instrument on transnational corporations and other business enterprises with regard to human rights. This legal framework has a more ambitious scope and aims to establish strict binding rules. As a member of the African group and as a State, Burkina Faso is engaged in this process in the United Nations.

It appears clearly that Burkina Faso militates, internationally and regionally, in favour of more binding international obligations for multinational companies when it comes to environmental and human rights matters. This commitment has continuously been requested and welcomed by Burkinabe and African civil society organisations. It is therefore hard to understand how the country could abruptly take a dim view of the adoption of national laws like the one currently initiated in Switzerland.

Finally, the CERDE and the ACCA would like to point out that under its international human rights commitments, Burkina Faso must protect its citizens against all forms of violations of their rights. This obligation falls primarily on the government. In the context of the activity of multinational corporations, in particular, the obligation to protect is strongly recalled by the United Nations guiding principles on business and human rights. It is not for any member of the government to override such primary considerations. The position taken by Burkinabe Minister Harouna Kaboré tends to dangerously deprive citizens of the fundamental guarantees offered by international legal instruments. It also tends to deny their rights to an effective remedy in the event of human rights violations caused by the operations of multinational companies.

We urge the government of Burkina Faso to clarify this matter as the position of its minister is contrary to its international commitments. In line with our advocacy mandates, the CERDE and ACCA remain at the disposal of the government of Burkina Faso. We are happy to shed more light on the tragedy experienced by thousands of workers, individuals and local communities as well as their natural environment due to the careless operations of many multinationals, including in Africa and Burkina Faso.

[The Centre d'Études et de recherches en droit de l'environnement](#) (CERDE) is a Burkinabe based association that focuses on environmental issues. The CERDE collaborates with ACCA, contact@cerde-bf.com Tel. 00226 25654227.



[The African Coalition for Corporate Accountability](#) is the largest coalition of African civil society (over 140 organisations) working on business and human rights issues. ACCA sits at the Center for Human Rights at the University of Pretoria in South Africa. To contact the ACCA Secretariat: projects@accahumanrights.org